IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1456 OF 2003

Sou. Asha Prabhunath Gupta ...Petitioner
Vs.
State of Maharashtra & Ors. ...Respondents

Mr.R.K.Mendadkar for Petitioner
Mr.C.R.Sonawane, A.G.P. for Respondent Nos.1 & 2
Mr.R.M.Sawant for Respondent No.3
Mr. R.S. Datar for Alert Citizen Sangh

CORAM: H.L.GOKHALE &
S.P.KUKDAY,JJ.
DATED: 9TH JUNE, 2005

P.C.

. Heard Mr. Mendadkar in support of this Petition. Mr.C.R.Sonawane appears for Respondent Nos.1 and 2. Mr. Sawant for Respondent No.3. The Petitioner claims to belong to Teli Community which is recognised as Other Backward Class in Maharashtra. This Community has been recognised as O.B.C. on 13th October, 1967. Petitioner is admittedly a person with her origin from Uttar Pradesh and thus she is migrant. She can also claim the benefit of this Community if she belongs to such Community provided she shows that she migrated and settled in the State prior to this Notification. Petitioner obtained the Caste Certificate that she belongs to this Community on 20th January, 1997 with view to contest the Election of the Municipal Corporation. Subsequently the caste claim has come to be challenged by Citizen Alert Committee and has been referred to the Caste Verification

Committee.

2. The Committee has followed the due process as against scrutiny. It has also come to the notice of Vigilance Cell that Petitioner was born at Bhimapur, Tal: Gajipur in Uttar Pradesh and name of her father is Khaja Ramayan Gupta, and thereafter the order came to be passed on 20th February, 2003 holding that the Petitioner does not belong to this particular Community and therefore, Caste Certificate came to be cancelled. It is this order which has been challenged in the present Petition.

3. Mr.Mendadkar submits that the Petitioner does have record to show that her father's family was domiciled of Maharashtra. He relies on one agreement and affidavits executed by a couple of supporting witnesses. However, the Scrutiny Committee has gone into the material on record which was supplied by Vigilance Cell. It is seen that the Petitioner was born in village Bhimapur, Dist: Gajipur in Uttar Pradesh. She has studied up to VIIIth standard there and she got married at her father's house at Gajipur in 1971 and thereafter she has come to Mumbai some time in 1973-74 and it has also come on record that her father was conducting business at Gajipur which now her brothers are conducting the same.

4. If Petitioner's father was in Maharashtra right from 1952 onwards as claimed surely there would have been documents such as Water bills, Electricity Bills, Taxes paid, Ration Card, Voters card etc.

Nothing on that count has been produced. Only one document is sought to be produced which is an agreement entered into by one Khaja Ramnarayan Teli. One does not know whether this Khaja R. Teli and one Pariyalal Sajandas Hindul executed such agreement. Besides it cannot carry the case of Petitioner further that her father was residing at Mumbai. Assuming that any such agreement was executed that does not mean that they were carrying on business. A businessman will have many other documents to show the running of true business. In the absence of such documents and only one agreement being produced by the Petitioner and affidavits of two persons, the Committee declined to accept that the Petitioner's father was residing in the State of Maharashtra prior to 13th October, 1967 and cancelled her Caste Certificate. There is no error in the decision. The Petition is rejected.

(H.L.GOKHALE,J.)

(S.P.KUKDAY,J.)